

Rickner PLLC

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April 12, 2024

Via ECF

Hon. Paul A. Engelmayer
United States District Judge
Southern District of New York
40 Foley Square
New York, NY 10007-1312

Re: *Moss v. The City of New York et al.*, 23-cv-1632

Dear Judge Engelmayer:

We represent the Plaintiff in the above-captioned action and respectfully write to request: (1) that the court compel the Defendant City to identify the remaining Doe Officers within 21 days and (2) a 30-day extension of the deadline to move for an amendment of the pleadings. The current deadline is Monday, April 15, 2024, and therefore, Plaintiff requests an extension to May 15, 2024.

As outlined in the parties' letter motion for an extension on discovery deadlines (ECF 63), Plaintiff has worked diligently to identify all unknown parties and to conduct discovery in a timely manner.

After several meet and confers, Plaintiff was able to file a Second Amended Complaint on December 12, 2023, naming on Defendant Omar Smith. (ECF 46). In January 2024, after reviewing Defendants' the City, Lewis, and Huggins' Responses to Plaintiff's first set of discovery requests and finding no identifications of the remaining Does, Plaintiff promptly requested a meet and confer, where Defendants' counsel indicated that there are multiple pending requests for the Department of Correction ("DOC") to identify disclosures that may help in the identification of the remaining Does. During this meet and confer, Defendants also requested that Plaintiff provide specific characteristics of the "John Doe" officers to assist in the identification.

Although there were extensive delays to getting this information due to DOCCS' failure to produce Plaintiff for a legal call, on March 4, 2024, Plaintiff's counsel was able to provide the specific information requested by Defendants. Since that time, the parties have met and conferred several times, but there has been no additional information provided by defense counsel regarding the identities of the remaining Does. Furthermore, defense counsel has not indicated that any additional information is necessary from Plaintiff to in order to identify them.

For these reasons, Plaintiff now writes to respectfully request: *First*, that this Court compel the Defendant City to identify the names and service addresses of the following Doe officers within 21 days of the date of the Order:

- Approximately 4-5 male correction officers (black and/or latino) working in and/or visiting NIC Dorm 4 on December 28, 2021 at some time between approximately 7:00am and 12:00pm—two of the officers were larger/husky, one was a white shirt (sergeant) and the rest wore blue uniforms; and, all of them carried mace and wore regular officer belts.

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Second, Plaintiff respectfully requests a 30-day extension of the deadline to move for an amendment of the pleadings. Based on Plaintiff's diligent efforts to identify the unknown defendants and the parties' continued efforts to work together to do so, we have shown good cause for a 30-day extension to the current amendment deadline.

Although the statute of limitations has not run and identification of the remaining Does was delayed, in part, due to Plaintiff's counsel's inability to speak with her client, this is Plaintiff's fifth request for an extension of time to amend—Plaintiff does not wish to delay the proceedings any further.

Plaintiff reached out to the Defendant City, Defendant Lewis, Defendant Smith, and Defendant Huggins to discuss the motion for an extension of time but did not receive a response.

We thank you for your time and attention to this matter.

Respectfully,

/s/

Sara Wolkensdorfer

The Court grants plaintiff's motion for a 30-day extension. Defendants are ordered to file a response to plaintiff's motion to compel by April 19, 2024.

SO ORDERED.

Dated: April 16, 2024
New York, New York

Paul A. Engelmayer

PAUL A. ENGELMAYER
United States District Judge